

Approved 11/1/06

**TOWN OF CUSHING
PLANNING BOARD
Minutes of Meeting
October 4, 2006**

Board Present: Bob Ellis, Evelyn Kalloch, Arthur Kiskila, Frank Muddle, Dan Remian, CEO Scott Bickford and Secretary Deborah Sealey

Board Absent: None

1. Call to Order: Chairman Remian called the meeting to order at 7:00 pm and stated that there would be no discussion of any current or past applications or applicants.

2. Minutes of 8/2/06 and 9/6/06:

ACTION: Mr. Kiskila made a motion, seconded by Mr. Muddle, to approve the minutes of the 8/2/06 minutes. Carried 3-0-2 (Mrs. Kalloch and Mr. Ellis abstained)

The chairman requested a correction to Item #4 in the minutes of the 9/6/06 meeting.

ACTION: Mr. Ellis made a motion, seconded by Mrs. Kalloch, to approve the minutes of the 9/6/06 meeting as corrected. Carried 4-0-1 (Mr. Kiskila abstained))

3. Informal Discussion: Mr. Remian asked the Board's intentions for the informal discussion listed on the agenda. Mr. Kiskila asked if the moratorium would meet the deadline and the chairman said he thought it would, though two items were in question. Mr. Ellis agreed, noting that a tentative timeline called for a public hearing on November 16 and the referendum on November 27; this would allow the 45 days for the DEP to respond before the 1/11/07 deadline. Mr. Muddle said he thought yesterday's session had been good and the committee had decided to meet weekly in October. Chairman Remian said the town actually had fewer Resource Protection areas than shown on the Town Office map. CEO Bickford asked if the committee would be incorporating the new model ordinance put forth by the state. Mr. Remian responded that the committee had been charged with bringing the town's ordinance in line and did not want to add the state's changes at the same time. Mr. Ellis said it would have been confusing for the voters to incorporate the two separate issues in one vote. Mr. Bickford acknowledged that the state's new model would be dealt with after the moratorium. Mrs. Kalloch said the DEP fact sheet went too far in increased protection of wildlife habitat. Mr. Remian said the town would not enforce that because it was a state issue. The CEO said he thought the state would have a hard time making it stick.

James Tower asked and was granted permission to speak. Mr. Tower said the 4:30 pm ordinance committee meetings were difficult for the public to attend. Mr. Remian replied that the committee was trying to work around Danny Staples and Mr. Tower said he had not seen Mr. Staples at the meetings. Mr. Remian said he thought there might be more work to do in response to a wording change David Cobey had proposed to the committee last week.

Mr. Ellis said he would like to discuss a comment made by a fellow PB member at the last meeting. He then quoted Mr. Muddle as having said he expected the CEO to handle dialog between applicants and the PB and asked the rest of the Board if they agreed. Mr. Ellis explained that applicants sometimes called him at home with questions and he wondered if the Board should establish a procedure for such situations. Mr. Muddle said he felt it was inappropriate for members to be getting into specifics with applicants since the CEO determined if an application was complete. Mr. Remian said he had no problem giving guidance or assistance, but Mr. Ellis said he felt it would be cleaner if the members all agreed on how to handle this issue.

Mr. Tower said that most towns with which he worked had a submission deadline prior to the PB meeting. There was dialog, consisting of calls back and forth and often an informal meeting, until packets went to the Board, he said. Mr. Tower said the limited availability of Cushing's CEO allowed no opportunity for such dialog and, as a result, he was always expecting grenades to be lobbed at him at meetings. Mr. Tower said dialog prior to meetings would allow many issues to be narrowed considerably before the PB meeting. Mr. Muddle said he was intimidated

by the expectation of interpreting Maine state law since he had been on the Board but a short time. Mr. Tower commented that it was easier to have informal discussions when not in a meeting. CEO Bickford said that Owl's Head's PB chairman had a cutoff date after which he would not speak with an applicant. Mr. Tower said he would suggest an informal meeting with two PB members and the CEO, if possible. Mr. Muddle said he would not be comfortable sitting in on an informal meeting. Mr. Remian said that he felt the CEO acted in the best interests of the applicant and the town and could decide if an application was complete. Mr. Bickford said he had tried to be in favor of the applicant and had been properly slapped for allowing late submissions. Mr. Ellis said he felt it was part of the PB's job to let applicants know before a meeting if there was a problem, but he usually referred them to the CEO. Mr. Kiskila said he thought applicants' questions should be referred to the CEO and the chairman because he hated to be called and not provide the correct information. Mr. Ellis said he was happy to have the CEO and the chairman communicate with applicants. Mr. Remian said the Board had delegated responsibility for enforcement to Mr. Bickford, who was better able to answer applicants' questions. Mr. Tower asked if the CEO could be more available. Mr. Bickford said he usually came in on Saturday afternoons in addition to Wednesday afternoons. Noting that in some small towns the CEO met by appointment only, the CEO said he was willing to be available in the evening if pre-scheduled.

Mr. Kiskila asked why nothing had been done on the Moose Run Subdivision and how long the application approval was good. Mr. Remian said he thought the plans had been scaled back and the fire pond eliminated. Mr. Bickford said it did not have to be developed, even if approved, but he thought it would come up again in the future.

Mr. Tower asked if the Board wanted to or could do anything about the fact that, in most municipalities, legal questions were decided outside the formal PB meetings. He said there had been a lot of debate in Cushing's meetings concerning the interpretation of rules. He said he felt the PB counsel, compared to those of other towns, had a political agenda. Mr. Tower said attorneys usually gave middle-of-the-road advice and often presented a choice of ways to look at things, while Cushing's attorney came down hard on one side. Mr. Bickford said the town had several attorneys and discussing one would be inappropriate at this meeting. Mr. Tower said it was his opinion that the attorney he saw at PB meetings was not politically unbiased.

Mr. Tower said Cushing needed a recycling program and Mrs. Kalloch said it had one and referred the developer to the town's website for details. Mr. Tower then said there were many invasive plant species in the town and he thought the "do-gooders" in town should take them on. Mr. Ellis asked if Mr. Tower could organize such a group and he said he would.

4. Adjournment: Mrs. Kalloch made a motion, seconded by Mr. Ellis, to adjourn the meeting at 7:45 pm.
Carried 5-0-0

Respectfully submitted,

Deborah E. Sealey